

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TIMOTHY MAKAS,

Plaintiff,

v.

1:05-CV-1564
(GLS)(RFT)

ULSTER COUNTY; ULSTER COUNTY DISTRICT
ATTORNEYS OFFICE; DONALD WILLIAMS; STATE
OF NEW YORK; RICHARD GERENTINE;
DENNIS SCHLENKER,

Defendants.

APPEARANCES:

TIMOTHY MAKAS
Plaintiff, *pro se*

GARY L. SHARPE, DISTRICT JUDGE

DECISION and ORDER

By Decision and Order filed February 13, 2006, *pro se* plaintiff Timothy Makas was directed to file an amended complaint if he wished to avoid dismissal of this action. Dkt. No. 5 (the "February Order"). Makas submitted an amended complaint to the Court for review. Dkt. No. 9. Makas also appealed the February Order to the United States Court of Appeals for the Second Circuit. Dkt. No. 10. That appeal is pending.¹

Presently before the Court is a motion filed by Makas seeking reconsideration of the February Order. Dkt. No. 13.

A court may justifiably reconsider its previous ruling if: (1) there is an intervening change in the controlling law; (2) new evidence not previously available comes to light or (3) it becomes necessary to remedy a clear error of law or to prevent manifest injustice. *Delaney v. Selsky*, 899 F.Supp. 923, 925 (N.D.N.Y. 1995) (McAvoy, C.J.)

¹ In light of the pendency of the appeal, the amended complaint is not before the Court for review.

(citing *Doe v. New York City Dep't of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir.), *cert. denied*, 464 U.S. 864 (1983)).

By his motion for reconsideration, Makas contends that the February Order was erroneous and contrary to law. Dkt. No. 13. Makas does not appear to claim that there has been a change in the controlling law or that new evidence not previously available has come to light.

Upon review of the file, including Makas' motion, the Court finds that the complaint was properly dismissed and that Makas has not established that reconsideration of the Court's Decision and Order is necessary to prevent manifest injustice. The fact that Makas disagrees with the Court's decision does not warrant reconsideration thereof. A motion for reconsideration is not a vehicle for advancing arguments previously rejected. Thus, Makas' motion for reconsideration is denied.

WHEREFORE, it is hereby

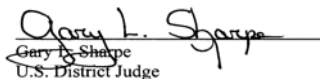
ORDERED, that Makas' motion for reconsideration (Dkt. No. 13) is denied, and it is further

ORDERED, that the Clerk return the file to the Court for consideration of the amended complaint upon notice from the Second Circuit that Makas' appeal has been determined, and it is further

ORDERED, that the Clerk serve a copy of this Order on Makas.

IT IS SO ORDERED.

Dated: July 10 , 2006
Albany, New York


Gary L. Sharpe
U.S. District Judge